

Message Text

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EB/OFPP:ROBERT SIMPSON

TREASURY: WILLIAM BARREDA

USDA/RICHARD GOODMAN

EB/TA:JOHN CRAWFORD

STR:HOWERD WILLIAMS

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TO USMISSION EC BRUSSELS

AMEMBASSY BONN

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AMEMBASSY THE HAGUE

AMEMBASSY COPENHAGEN

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SUBJECT: COMMENTS ON EC COMMISSION PROPOSAL ON SOYBEANS

REF: A) STATE 238360 B) STATE 195296 C) EC BRUSSELS

6270 PARA 4

1. THE UNITED STATES OPPOSES ANY ACTION WHICH WOULD IMPAIR ITS BINDINGS ON SOYBEANS AND SOYBEAN CAKE AND MEAL. IN THE PAST, IT HAS BEEN OUR POSITION THAT SUBSIDIZED PRODUCTION IN THE COMMUNITY CONSTITUTED SUCH IMPAIRMENT. THIS POSITION IS AMPLY SUPPORTED BY A 1955 GATT RULING THAT "SO FAR AS DOMESTIC SUBSIDIES ARE CONCERNED... A CONTRACTING PARTY WHICH HAS NEGOTIATED A CONCESSION UNDER ARTICLE II MAY BE ASSUMED, FOR THE PURPOSE OF ARTICLE XXIII, TO HAVE A REASONABLE EXPECTATION, FAILING EVIDENCE TO THE CONTRARY, THAT THE VALUE OF THE CONCESSION WILL NOT BE NULLIFIED OR IMPAIRED BY THE CONTRACTING PARTY WHICH GRANTED THE CONCESSION BY THE SUBSEQUENT INTRODUCTION OR INCREASE OF A DOMESTIC SUBSIDY ON THE PRODUCT CONCERNED." SEE GATT, THIRD SUPPLEMENT, BISD 224-1955. FYI: IN THE REPORT ADOPTED IN 1962 CONCERNING THE URUGUAYAN COMPLAINTS CASE, A CONCEPT OF "PRIMA FACIE" NULLIFICATION AND IMPAIRMENT WAS DEVELOPED (GATT DOC. L/1923; 11TH SUPP. BISD 95, AT 100, PARA 15 AND 20). IF PRIMA FACIE EVIDENCE OF NULLIFICATION AND IMPAIRMENT EXISTS, THEN THE COUNTRY INTRODUCING THE SUBSIDY MUST BEAR THE BURDEN OF ESTABLISHING THAT NO NULLIFICATION OR IMPAIRMENT HAS OCCURRED. SINCE THE IMPOSITION OF A SUBSIDY VIOLATES REASONABLE EXPECTATIONS, SUCH ACTION HAS ALSO BEEN DETERMINED TO BE A PRIMA FACIE NULLIFICATION. SEE GATT, 10TH SUP. BISD 209, PARA 28, (1962) AND JACKSON, WORLD TRADE AND THE LAW OF GATT, P. 182-3). END FYI.

2. IN RECENT DISCUSSION WITH COMMUNITY OFFICIALS, NEITHER WE NOR THEY HAVE BEEN EMPHATIC REGARDING THE ABOVE POINT, PARTLY ON THE GROUNDS THAT EC PRODUCTION MAY REMAIN VERY SMALL AND PARTLY BECAUSE DIFFERING VIEWS AMONG EC MEMBERS AND THE COMMISSION HAVE MADE IT IMPOSSIBLE TO PREDICT WHAT, IF ANY MEASURES WILL BE TAKEN ON A SOYBEAN CAP. HOWEVER, THERE CAN BE NO DOUBT THAT PREVIOUSLY ESTABLISHED SUBSIDY PROGRAMS FOR OILSEEDS IN THE COMMUNITY AND THE NEWLY ANNOUNCED PROPOSAL TO CREATE A SUBSIDY PROGRAM FOR SOYBEANS DO AND WILL HAVE SOME LIMITED OFFICIAL USE

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EFFECT ON COMMUNITY IMPORTS OF OILSEEDS AND PRODUCTS, INCLUDING SOYBEANS. THEREFORE, THE UNITED STATES IS WILLING TO RESERVE ITS POSITION AND AWAIT FINAL COMMISSION RECOMMENDATIONS. AT THE SAME TIME IT SHOULD BE MADE CLEAR TO COMMISSION AND HOST GOVERNMENT OFFICIALS THAT THE UNITED STATES INTENDS TO VIEW AS A WHOLE THE SOYBEAN/ FEED/GRAIN PROPOSALS OF THE COMMISSION AND THE PRICE RELATIONSHIPS THEY WOULD ESTABLISH.

3. THE UNITED STATES IS FURTHER CONCERNED THAT THE ESTABLISHMENT FOR AN EC DOMESTIC PRODUCTION INCENTIVE PROGRAM FOR SOYBEANS COULD BE THE FIRST STEP LEADING TO THE INTRODUCTION OF DUTIES, LEVIES, DISCRIMINATORY SUBSIDIES TO CRUSHERS OR OTHER BARRIERS TO IMPORTS OF SOYBEANS AND SOYBEAN PRODUCTS OR TO THE USE OF EXISTING CAP SAFEGUARD PROVISIONS TO PROTECT THE SOYBEAN PROGRAM AND/OR EC OILSEED PROCESSING IN A MANNER INCONSISTENT WITH GATT.

4. BASED ON THE ABOVE, EC POSTS SHOULD BECOME THOROUGHLY FAMILIAR WITH THE PLANS AND ISSUES NOW DEVELOPING ON SOYBEANS. AS APPROPRIATE AND IN LIGHT OF DIFFERING POSITIONS OF VARIOUS HOST GOVERNMENTS, THEY SHOULD MAKE KNOWN US INTERESTS AND DETERMINATION TO OPPOSE ACTIVELY EC PROPOSALS WHICH WOULD IMPAIR US GATT RIGHTS AND WHICH MIGHT FURTHER INCREASE EC AGRICULTURAL PROTECTIONISM. POSTS SHOULD ALSO BE ALERT TO NEW DETAILS OF COMMISSION OR HOST GOVERNMENT PLANS AND PROMPTLY REPORT NEW DEVELOPMENTS AS THEY EMERGE, ESPECIALLY EC PRICE RELATIONSHIPS BETWEEN SOYBEANS AND OTHER FEEDS. RUSH

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